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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,362	03/31/2004	Adam Merzon	1668-5 RCE	6083

7590 01/14/2008  
Law Office of Stephen Cannavale  
3 Hanlan Road  
Caldwell, NJ 07006

EXAMINER
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TALBOT, MICHAEL

ART UNIT	PAPER NUMBER
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3722

MAIL DATE	DELIVERY MODE
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01/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/816,362	<b>Applicant(s)</b> MERZON, ADAM	
	<b>Examiner</b> Michael W. Talbot	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05 November 2007 has been entered.

### ***Claim Objections***

2. Claims 1 and 3 are objected to because of the following informalities:

Claim 1 recites the limitation "the centerline" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "a hinge" in line 3. Upon further review of the full disclosure and the amendments to claim 1, it is best understood that the character reference should read as --a spine-- (refer to Figs. 9-13, specifically Fig. 13 of application) to distinguish it from the hinges (44',46').

Claim 3 recites the limitation "said hinge" in line 3. Upon further review of the full disclosure and the amendments to claim 1 from which claim 3 depends, it is best understood that the character reference should read as --said spine-- (refer to Figs. 9-13, specifically Fig. 13 of application) to distinguish it from the hinges (44',46').

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

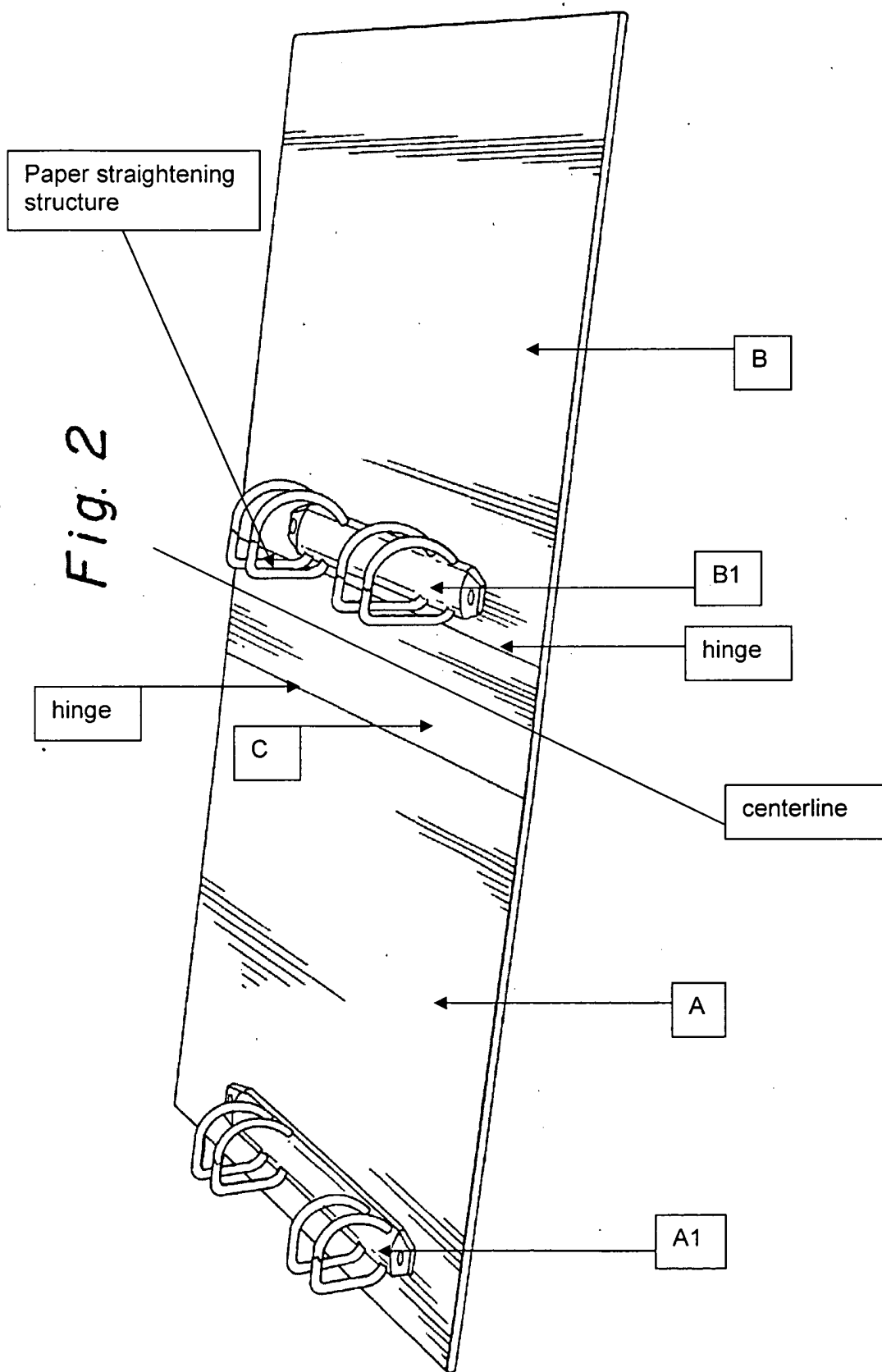
A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lepisto (D467,966). Lepisto shows in Fig. 1 and annotated Fig. 2 (shown below) a binder arrangement comprising a pair of covers (A,B) each hingably carried a predetermined distance from a centerline of a spine (C), wherein each of the pair of covers constructed with a pivoting surface that pivots 90° against each of the hinges (Fig. 1), a first set of binders (B1) permanently fixed (via rivet in Fig. 1 and further evidence by US 5,620,207 to Podosek et al., Fig. 23) at a location adjacent to and parallel to the hinge (annotated Fig. 2) and carried by one of the covers (B), and a second binder (A1) carried by the other one of the covers (A). Lepisto shows the binders are offset from one another and do not overlies each other when the arrangement is disposed in a closed position (Fig. 1). Lepisto shows the binders are offset from one another such that one of the binders (B1) is spaced farther away from a centerline of the spine than the other one of the binders (annotated Fig. 2). Lepisto shows the binders also include a plurality of D-shaped ring paper straightening fastening mechanisms, wherein the paper straightening structure is a linear portion of the D-shaped ring (annotated Fig. 2). However, Lepisto does not disclose wherein the offset is between 1/4 of an inch and 3/4 of an inch, and wherein the offset is about 1/2 of an inch.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

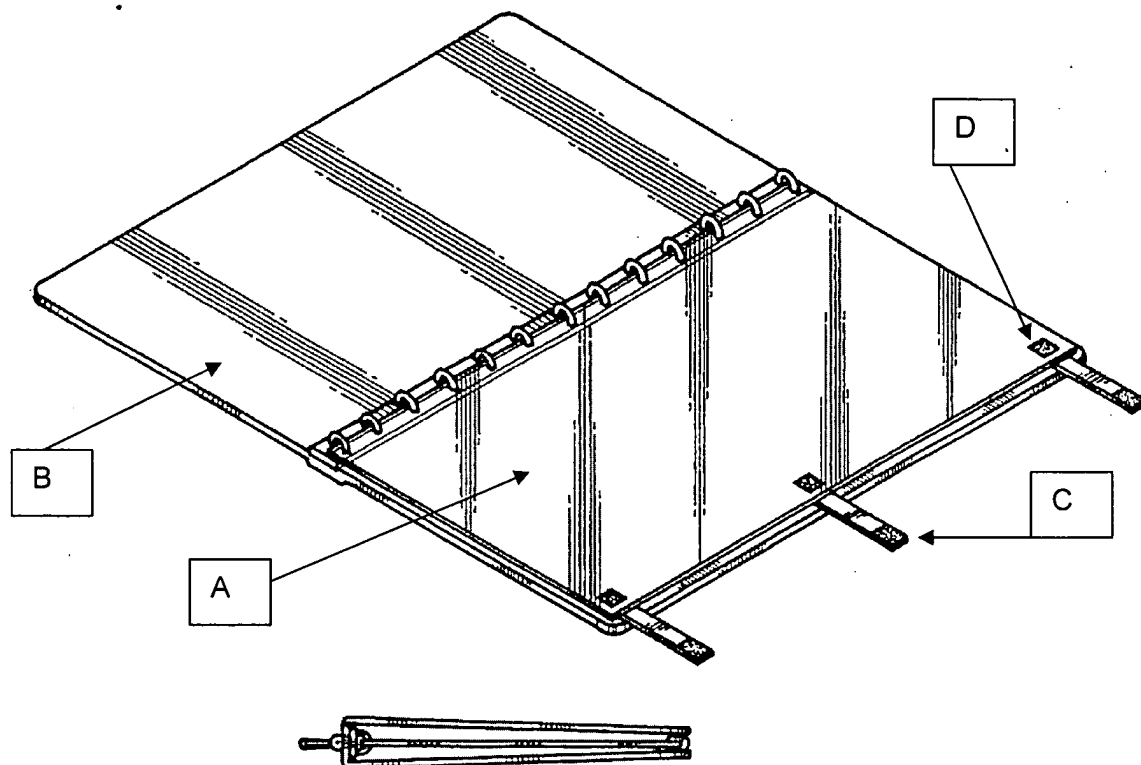
6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966). Lepisto lacks the offset being between 1/4 of an inch and 3/4 of an inch, and the offset being about 1/2 of an inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset at any desirable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, it would have been obvious to construct the binder offset at any desirable range, since applicant has not disclosed the criticality of having the offset within a particular distance range, and the invention would function equally as well with any desirable offset distance selected.

7. Claims 6-9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966) in view of Zimbelman (D364,640). Lepisto lacks one of the binders including a hold down page that is equipped with a releasable latch that releasably anchors the page to one of the covers, wherein the latch comprises a latch strap carried by the one of the covers and a latch receiver carried by the hold down page, and wherein the latch strap and receiver comprises a hook loop and fastener that releasably secures the page to a perimeter of one of the covers.

Zimbelman shows in Figs. 1 and 2 (shown below) a binder arrangement comprising a hold down page (A) that is equipped with a releasable latch receiver (D) that releasably anchors one of the covers (B) to the hold down page through a latch strip (C), and releasably securing

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the page to a perimeter of one of the covers. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the binder arrangement of Lepisto with a hold down page as taught by Zimbelman for providing storage separators.



8. Claims 10-12 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966) in view of Moor (6,079,528). Lepisto lacks flexible sidewalls that include a skirt that extends along the side edges of each cover, wherein one skirt releasably attached to the other skirt by a fastening arrangement that is elastically anchored to the spine by a stretchable gather.

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Moor discloses in Figures 1 and 4, a binder arrangement comprising covers (12,14) connected to a spine (16) by a hinge, a binder, a case that includes a sidewall (20,22) that extends between side edges (Fig. 4) of the covers that is releasably closed by a zipper (24), and a stretchable gather or connector (42) that attaches one end of the zipper to the spine (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the binder of Lepisto with a cover having flexible sidewalls, and skirts, and a stretchable gather as taught by Moor for providing a binder which will be completely enclosed from outside elements, thus protected from damage.

9. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966) in view of Welch (6,209,917). Lepisto lacks each hinge comprising a plurality of scores slits formed in the interior surface of the board, wherein the board is comprised of a fibrous material, or kraftboard, and wherein the scores define a region that is compressed to a thickness less than the surrounding thickness of the board, and wherein the spine can include any desirable number of scored hinges.

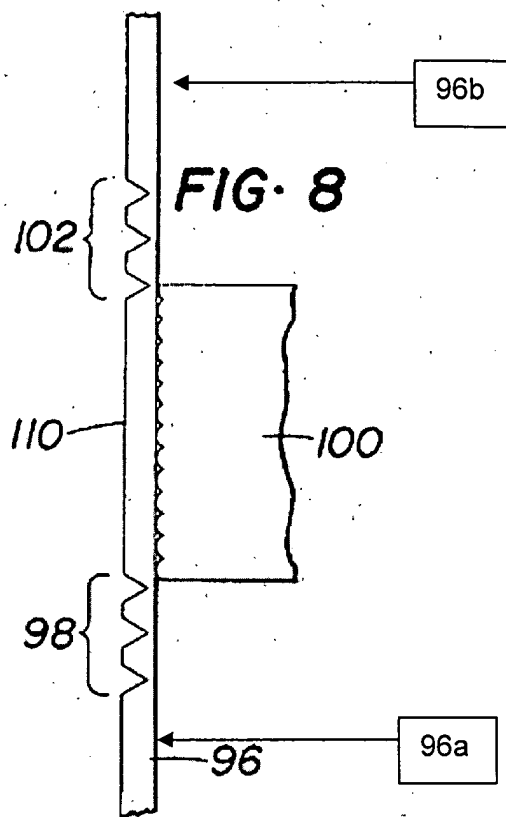
Welch discloses a binder arrangement comprising the spine and covers being defined by a board that includes spaced apart integrally formed hinges (45), wherein each hinge comprises a plurality of scores slits formed in the interior surface of the board (col. 6, lines 1-30, and seen in Fig. 6), wherein the board is comprised of a fibrous material, or kraftboard (abstract), wherein the scores define a region that is compressed to a thickness less than the surrounding thickness of the board (see Fig. 6), and wherein the spine can include any desirable number of scored hinges (col. 6, lines 15-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify binder arrangement of Lepisto for providing a flexible binder that can accommodate various thicknesses of enclosed bound material.



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10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966) in view of Delaire et al. (3,454,694). Lepisto shows a binder arrangement being of a one-piece unitary and homogenous construction comprising a first binder (B1) permanently fixed (via rivet in Fig. 1 and further evidence by US 5,620,207 to Podosek et al., Fig. 23) to one of the covers (B) and at a location parallel to the pair of hinges (annotated Fig. 2), and a second binder (A1) permanently fixed (via rivet in Fig. 1 and further evidence by US 5,620,207 to Podosek et al., Fig. 23) to the other one of the covers (A) and at a location parallel to the pair of hinges (annotated Fig. 2), wherein the pair of covers are hingably carried by the spine (C), wherein one of the binders (A1) can be spaced away farther from a centerline of the spine (annotated Fig. 2) than the other one of the binders (B1). Lepisto lacks a pair of hinges defined by a plurality of scores formed in a surface of the board with one of the hinges distinguishing the board into a first cover, a spine, and a second cover.

Delaire et al. shows in Figure 9 and annotated Figure 8 (shown below) a board (48) of one-piece, unitary and homogenous construction that has a pair of hinges (98,102) each defined by a plurality of scores (annotated Fig. 8) distinguishing the board (96) into a first cover (96a), spine (110), and a second cover (96b). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the binder of Lepisto with a one-piece cover board having a pair of scored hinges as taught by Delaire et al. for providing covers having increased pivoting flexibility.



### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection as described above.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning the content of this communication from the examiner should be directed to Michael W. Talbot, whose telephone number is 571-272-4481. The examiner's

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office hours are typically 8:30am until 5:00pm, Monday through Friday. The examiner's supervisor, Mrs. Monica S. Carter, may be reached at 571-272-4475.

In order to reduce pendency and avoid potential delays, group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at FAX number 571-273-8300. This practice may be used for filling papers not requiring a fee. It may also be used for filing papers, which require a fee, by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Michael W. Talbot of Art Unit 3722 at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MWT  
Examiner  
9 January 2008



MONICA CARTER  
SUPERVISORY PATENT EXAMINER

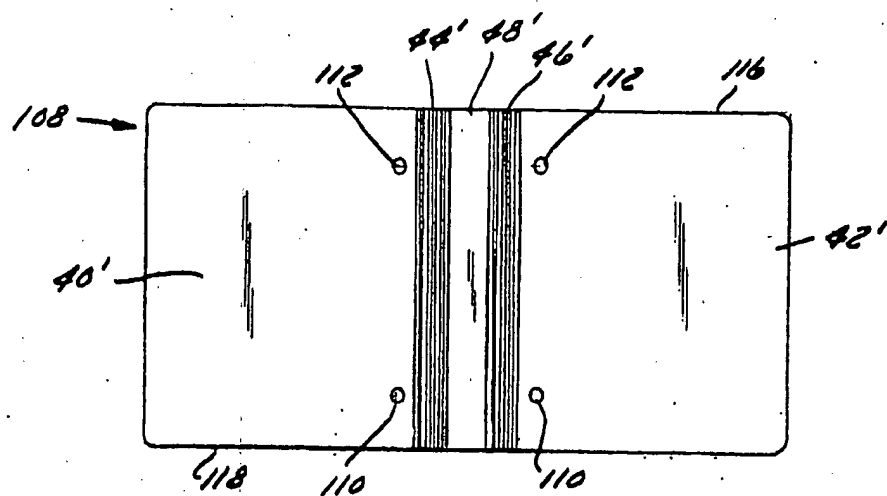


FIG. 9

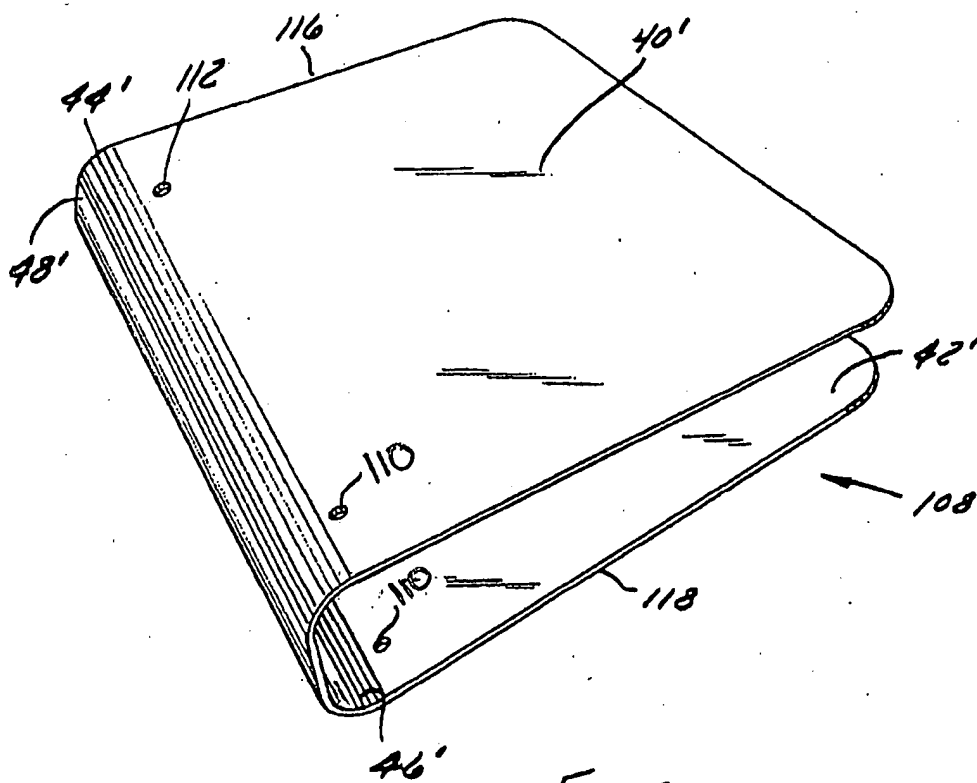


FIG. 8

ENTER 1/9/08 RWR

